

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Ameren Transmission Company of Illinois	:	
	:	
Petition for a Certificate of Public Convenience	:	
and Necessity, pursuant to Section 8-406.1 of	:	
the Illinois Public Utilities Act, and an Order	:	
pursuant to Section 8-503 of the Public Utilities	:	No. 12-0598
Act, to Construct, Operate and Maintain a New	:	On Rehearing
High Voltage Electric Service Line and Related	:	
Facilities in the Counties of Adams, Brown, Cass,	:	
Champaign, Christian, Clark, Coles, Edgar,	:	
Fulton, Macon, Montgomery, Morgan, Moultrie,	:	
Pike, Sangamon, Schuyler, Scott, and Shelby,	:	
Illinois.	:	

INITIAL BRIEF ON EXCEPTIONS ON REHEARING
OF MOULTRIE COUNTY PROPERTY OWNERS

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TABLE OF CONTENTS

	<u>PAGE</u>
I. INTRODUCTION	1
X. MT. ZION-KANSAS SEGMENT	2
C. Moultrie PO Position	6
1. Length of the Line (Exception #1)	6
2. Difficulty and Cost of Construction (Exception #2)	8
3. Difficulty and Cost of Operation and Maintenance (Exception #3)	11
4. Environmental Impacts (Exception #4)	15
5. Impacts on Historical Resources (Exception #5)	17
6. Social and Land Use Impacts (Exception #6)	20
7. Number of Affects Landowners/Stakeholders (Exception #7)	23
8. Proximity to Homes and Other Structures (Exception #8)	24
9. Proximity to Existing and Planned Development (Exception #9)	28
10. Community Acceptance (Exception #10)	30
11. Visual Impact (Exception #11)	32
12. Presence of Existing Corridors (Exception #12)	34
G. Commission Conclusion (Exception #13)	38
CONCLUSION	41

**INITIAL BRIEF ON EXCEPTIONS ON REHEARING
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COME NOW the Moultrie County Property Owners (“MCPO”), by their attorneys, Eric Robertson, Paul G. Foran and Lueders, Robertson & Konzen, LLC, and pursuant to 83 Ill. Adm. Code Part 200.830 and Section 10-111 of the Public Utilities Act (the “Act” or “PUA”), (220 ILCS 5/10-111), offer the following Brief on Exceptions (“BOE”) to the Administrative Law Judges’ (“ALJs”) Proposed Order (“PO” or “Proposed Order”) dated January 17, 2014.

I. INTRODUCTION

With regard to the Mt. Zion to Kansas segment of the IRP, the Proposed Order on Rehearing in this case makes substantial changes to the Commission’s August 20, 2013 Final Order in the first phase of these proceedings. (the “August 20 Order”). MCPO respectfully takes exception to the Proposed Order’s failure to recommend the approval of the Ameren Transmission Company of Illinois (“ATXI” or “Company”)/MCPO Stipulated Route from Staff’s Option #2 Mt. Zion substation location to the Kansas substation.¹

Though MCPO may not discuss in this BOE a specific issue that was addressed in its Initial or Reply Briefs, MCPO should not be considered to have abandoned or waived that issue. MCPO continues to support and rely on the arguments made in its Initial Brief on Rehearing of December 30, 2013 (“Brief on Rehearing”) and its Reply Brief on Rehearing of January 7, 2014 (“Reply Brief

¹ The Stipulated Route from the Staff Option #2 Mt. Zion substation location has been referenced as “MZK-2”. It will be referenced as “Route MZK-2” in this BOE.

on Rehearing”), and the testimony of its witnesses and evidence in the proceedings on rehearing and in the first phase of these proceedings, unless specifically stated otherwise herein.²

MCPO sets forth its suggested language for modifying the Proposed Order in Appendix A to this Brief on Exceptions.

X. Mt. Zion-Kansas Segment

The Proposed Order recommends adoption of the PDM/CFT Route from the Staff’s Option #2 Mt. Zion substation location (“CFT-2”) (as modified by Staff to avoid a development area in Sullivan, Illinois) as the preferred route in this proceeding. (PO at 77). It does so on the grounds that the CFT-2 route is less costly, affects fewer property owners, better utilizes existing corridors and presents no difficulty in construction or maintenance. (*Id.*). MCPO respectfully disagrees with the PO’s selection of this route.

*The Proposed Order fails to consider or even substantively discuss the undisputed fact that the MCPO route affects substantially fewer residential structures and substantially fewer non-residential structures within the 500-foot analysis corridor used by ATXI, and the other parties to analyze and identify the preferable routes for the entire IRP.*³ (PO at 74-77). This is unfortunate because the Commission has previously recognized, as it should, the great importance that attaches

² MCPO uses the captions from the Proposed Order in its Brief on Exceptions. It uses only those captions relevant to the issues it addresses in its BOE. The page references are to the PDF version of the Proposed Order available through the Commission’s e-docket system.

³ In the context of discussing residential and non-residential structure impacts, when MCPO uses the term “500-foot analysis corridor” or “500-foot corridor” it is referring to the number of such structures within 500 feet of the centerline of the transmission line route in question.

to impacts of proposed lines on residents and, as will be noted below, it has selected routes that were longer and more costly precisely to avoid adverse impacts on residents. Such impacts occur to actual human beings in terms of quality of life impacts resulting from the proximity to large transmission line structures. Such potential impacts are more than just economic issues related to farming operations or impacts on tourism. Yet, given uncontroverted record evidence, the Commission should be able to come to the conclusions that Route MZK-2 impacts substantially fewer residences. The Table below summarizes the residential and non-residential structure count for each route and identifies the evidentiary source in the record for those counts. *With the exception of one residence, the analyses performed by MCPO, PDM/CFT and ATXI all show the same number of residential structures within 500 feet of the centerline of Routes MZK-2 and CFT-2 and no party has contested the total of non-residential structures within 500 feet of the centerline.*⁴

⁴ The PDM/CFT claims there are 30 not 31 residences within 500 feet of the centerline of its route ("CFT-2").

TABLE 1

Route Alternative ¹	Residential Structures				
	Cumulative Quantity by Band				
	0-75	0-150	0-300	0-500	Total
MZK-2 - MCPO MZK from Staff Option #2	0	0	5	12 ²	12 ²
CFT-2 - Channon Family Trust from Staff Option #2	0	9	21	31 ³	31 ³

Source: MCPO Ex 2.2 (RH) Revised at page 4 of 4

¹ICC Staff conducted their own analysis; however, it utilized a smaller corridor (i.e., +/-400 feet) that quantified a smaller number of residential structures. Due to the different corridor width, this analysis is not presented here, but the results did quantify substantially fewer residential structures on the MZK-2 route. (ICC Staff Ex 4.0 (RH) Page 15 at 302-303; TR 12/19 page 359 lines 7-2)

²The twelve structures identified for Route MZK-2 within the 500-foot corridor are not disputed by PDM/CFT as they quantified 12 residential structures along this route (i.e., PDM Structure Numbers 1, 2, 4, 5, 8, 9, 10, 13, 14, 15, 17, and 18 from PDM Initial Brief at pages 33-51)

³PDM contests that a structure included in this count that is located on Henry Road is a residential structure. If that structure was reclassified as a residential structure, it would reduce the number of residential structures within the 500-foot corridor for Route CFT-2 from 31 to 30.

MCPO agrees and understands that this particular issue was one that generated a certain amount of debate among the parties. That debate included disagreement over the exact distance in feet certain structures might be from the centerline. *However, as explained in Table 1 above, ultimately, the parties (ATXI, MCPO and PDM/CFT) are in near complete agreement on the number of structures within each bandwidth (0 to 500 feet) for both routes. Furthermore, there appears to be no disagreement between ATXI and MCPO on the number of residential structures within 0-75, 0-150 and 0-300 feet. PDM/CFT has not provided any analysis challenging those figures). Under these circumstances, the evidence in the record is substantial, essentially uncontroverted, and clearly allows the Commission to determine that Route MZK-2 significantly outperforms Route CFT-2 with regard to impacts on residential structures.* In fact, the uncontroverted evidence requires such a finding.

As will be discussed in further detail below, part of the confusion regarding this issue may be attributable to the fact that, on rehearing, *to determine the number of residential structures within the ATXI/MCPO Stipulated Route ((Route MZK-2), PDM/CFT introduced an analysis based on a different and wider corridor width (530 feet) than the corridor width (500 feet) that ATXI, all the other parties, and the Commission itself has heretofore used to analyze all other route segments in these proceedings. However, while utilizing the wider corridor to analyze the impact on structures along Route MZK-2, PDM/CFT used the narrower 500-foot corridor width to analyze the number of residential structures on its own route. As noted above, however, when the 500-foot corridor is utilized consistently for both routes, there is no confusion about the number of residential structures located within the study corridor. The record evidence is clear and uncontroverted. Specifically, Route CFT-2 impacts significantly more residential structures than Route MZK-2.*

The Proposed Order also overlooks the evidence in the record that Stipulated Route MZK-2 impacts substantially fewer non-residential structures.

TABLE 2

Route Alternative	Non-Residential Structures ¹				
	Cumulative Quantity by Band				
	0-75	0-150	0-300	0-500	Total
MZK-2 - MCPO MZK from Staff Option #2	0	5	18	57	57
CFT-2 - Channon Family Trust from Staff Option #2	6	24	64	129	129
Source: MCPO Ex 2.2 (RH) Revised at page 4 of 4					
No party in this case contests the quantities of non-residential structures on either of these routes.					

Another potential source of confusion may derive from issues regarding paralleling of routes. In its' August 20, 2013, the Commission expressed a clear preference for a route to parallel an

existing transmission line so as to minimize new adverse impacts. (August 20 Order at 100). On rehearing, however, with regard to a different line segment, the Meredosia to Pawnee segment, ATXI opposed a route with more existing transmission paralleling because specific factors related to that segment posed operational and reliability concerns that made such paralleling problematic. ATXI, however, testified without contradiction that the same factors that posed paralleling concerns for the Meredosia to Pawnee segment do not exist with regard to the Mt. Zion to Kansas segment. Yet, on rehearing, the PO also reverses the Commission's previous determination that the Stipulated Route MZK is preferable with respect to paralleling existing corridors under the assumption the same factors impacting operational and reliability issues associated with the Meredosia to Pawnee apply to the Mt. Zion to Kansas segment because on rehearing the evidence continues to show substantial benefits associated with paralleling for the Stipulated Route MZK compared to the PDM/CFT route, there is no reason to forego the existing transmission line paralleling advantages which the Commission found that the Stipulated Route MZK, now Route MZK-2 provide compared to Route CFT-2.

C. MCPO Position

1. Length of Line - (*Exception #1*)

i) Description of MCPO Position

MCPO has addressed the Length of Line criterion and the impact of that criterion on the decision making process in its Initial Brief and its Reply Brief. (MCPO Br. on Reh. at 35; MCPO R. Br. on Reh. at 5-8). It will try not to repeat those arguments here, but incorporates the same by reference.

The August 20 Order found that the ATXI/MCPO Stipulated Route was the longest of the three competing routes from Mt. Zion to Kansas. (August 20 Order at 98). In spite of that fact, the Commission selected the ATXI/MCPO stipulated route as the preferred route for Mt. Zion to Kansas. (*Id.* at 100). In this case, even though Route MZK-2 is longer than Route CFT-2, there are factors which offset the greater length of Route MZK-2.

First, as noted above, Route MZK-2 impacts significantly fewer residential and non-residential structures within the 500-foot analysis corridor. The additional length of Route MZK-2 allows avoidance of a significant number of residential and non-residential structures. Second, the additional length allows Route MZK-2 to follow similar existing linear features. Specifically, it allows Route MZK-2 to parallel existing transmission lines and thereby minimize “. . . the intrusion into the landscape for this segment of the Illinois Rivers Project.” (August 20 Order at 99-100). Third, the additional length allows Route MZK-2 to impact fewer acres of minimally disturbed natural areas. (Reinecke, MCPO Ex. 4.0 (RH) at 4-6, MCPO Ex. 4.2 (RH)).⁵ Under such circumstances, even though Route MZK-2 is undeniably longer than Route CFT-2, its greater length does not necessarily make it the less desirable route.

MCPO proposes to modify the PO’s discussion of MCPO’s position with regard to this factor in Section X.C.1. - Length of Line - as indicated in Appendix A to this Brief on Exceptions.

⁵ Citations to testimony and exhibits on rehearing include “(RH)”. If the citation does not include (RH), it is a citation to testimony or exhibits in the original or existing proceedings.

ii) Criterion Conclusion

Route MZK-2 is longer than Route CFT-2, but considering that its greater length is offset by other beneficial factors, which include, but are not limited to, substantially less impact on residential and non-residential structures, paralleling of similar linear features and lesser impact on minimally disturbed natural areas and other factors, the shorter length of Route CFT-2 does not necessarily mean that Route CFT-2 should be favored over Route MZK-2 as the preferred route for Mt. Zion to Kansas. There is no evidence in this case which would justify selection of Route CFT-2 as the preferred route over Route MZK-2 on the basis of line length. In this case, the Commission has selected as the preferred route for certain IRP line segments routes that were longer and more costly than the other routes being considered. (*See*, August 20 Order at 76, selecting route for Meredosia to Pawnee that was longer and more costly than alternative.) This would be consistent with previous Commission holdings, such as in Docket 06-0179, where the Commission selected a route that was longer and more costly because it impacted fewer residences. (*Ameren Illinois Company*, Dkt. 06-0179, Final Order May 16, 2007 at 16).

2. Difficulty and Cost of Construction - (*Exception #2*)

i) Description of MCPO Position

MCPO addresses the difficulty and cost of construction criteria in its Initial Brief on Rehearing and its Reply Brief on Rehearing. (MCPO Br. on Reh. at 35; MCPO R. Br. on Reh. at 8-9). It will try not to repeat those detailed arguments here, but incorporate them by reference.

In the August 20 Order the Commission found that the ATXI/MCPO stipulated route had the lowest overall construction cost. (August 20 Order at 98). This is no longer the case. The Proposed

Order finds that compared to Route MZK-2, Route CFT-2 has a lower overall construction cost. (*See*, PO at 74-75, concluding that the PDM/CFT Route was preferable to the Moultrie PO Route for this criteria.) However, in evaluating the routing proposals on the basis of this criteria, the Commission should keep in mind that because Illinois customers pay only 9% of the market value of projects, the cost difference, from the point of view of Illinois customers, is substantially less than the \$15.2 million in total costs between these two routes. Indeed, the cost difference from the point of view of Illinois customers is only \$1.36 million. (*See*, MCPO Br. on Reh. at 35). Under such circumstances and in light of other differences between the two routes such as the significant difference in residential structure impacts, the difference in construction costs between the two routes does not justify the selection of Route CFT-2 over Route MZK-2 as the preferred route for the Mt. Zion to Kansas line segment.

In the August 20 Order, the Commission concluded that difficulties associated with the construction of the ATXI/MCPO stipulated route and the other two lines under consideration did not “appear to vary significantly.” (August 20 Order at 98). In the case of the August 20 Order, the record evidence showed that the ATXI/MCPO stipulated route was longer and paralleled 14.7 miles of existing transmission lines.

On rehearing, without discussion or citation to any evidence, the Proposed Order concludes that difficulty of construction is a factor that favors Route CFT-2 over Route MZK-2. The record does not support that conclusion. No party has specifically presented any evidence that the Stipulated Route MZK would be more difficult to construct than the PDM/CFT route. In fact, ATXI witness Hackman specifically testified that the Stipulated Route MZK is constructable and he in fact

recommends construction of this route. (Hackman, May 17, Tr. 1021-1023). The evidence regarding potential difficulty in the cost of construction is the same on rehearing as it was in the original proceeding. Route MZK-2 is maybe longer than the other routes under consideration, but there is still no specific evidence offered by any party quantifying or estimating any difference in the difficulty of constructing a transmission line on Route MZK-2 compared to Route CFT-2. In addition, the record evidence still shows that Route MZK-2 parallels 14.7 miles of existing transmission lines. The Proposed Order has not identified any specific evidence on rehearing that shows that there is any greater difficulty in constructing a transmission line on Route MZK-2 than there is on Route CFT-2. The transmission experts in this case, Mr. Rockrohr for the Staff, Mr. Hackman for the Company, and Mr. Dauphinais for MCPO have not suggested or implied that there is any significant difference with regard to difficulty of construction with regard to the two routes. PDM/CFT did not offer expert testimony on this issue. Indeed, their routing witness clearly stated she was not an “expert.” (Burns, PDM Ex. 6.0 (RH) at 3:32-33). Under the circumstances, there is no basis to determine that either route under consideration would be more difficult to construct than the other.

MCPO proposes to modify Section X.C.2 - Difficulty and Cost of Construction - as indicated in Appendix A to this Brief on Exceptions.

ii) Criterion Conclusion

While Route MZK-2 may be more costly to construct than the PDM/CFT route, the additional cost imposed on Illinois rate payers is not significant, given the significant difference between the two routes with regard to impacts on residential and non-residential structures and

MISO Multivalued Project regional cost sharing. Furthermore, there is absolutely no reliable evidence in the record that quantifies or otherwise describes any specific differences or variations with regard to the difficulty of construction of either of the lines under consideration. Under the circumstances, the Commission should not consider this factor as a controlling factor in selecting the preferred route from Mt. Zion to Kansas. The Commission should keep in mind that it has previously selected routes that were longer and greater in cost than other routes being considered because those routes, as does Route MZK-2 in this case, impact significantly fewer residential structures. (*Ameren Illinois Company*, Dkt. 06-0179, Final Order, May 16, 2007 at 16).

3. Difficulty and Cost of Operation and Maintenance - (*Exception #3*)

i) Description of MCPO Position

MCPO addresses the difficulty and Cost of Operation and Maintenance criteria in its Initial Brief on Rehearing and its Reply Brief on Rehearing. (MCPO Br. on Reh. at 35; MCPO R. Br. on Reh. at 10-15). It will try not to repeat those detailed arguments here, but incorporates them by reference.

The Proposed Order concludes, correctly, that the difficulty and cost of operation and maintenance does not materially differ for the two routes at issue on rehearing. (PO at 75). This is consistent with the Commission's August 20 Order which concluded that the difficulties and cost of operation and maintenance of the three lines under consideration did not vary significantly. (August 20 Order at 98). In doing so, the August 20 Order rejected arguments by PDM that are essentially the same arguments made by PDM/CFT on rehearing. In the case of the August 20 Order, PDM argued that ATXI witness Hackman testified that paralleling caused certain operational,

maintenance and reliability problems and that Ameren had previously refused to parallel other transmission lines for those reasons. In that Order, the Commission did not find such arguments compelling, and the same result should pertain on rehearing. (*See*, August 20 Order at 94-95).

Although the PO reaches the correct conclusion, it fails to fully address the evidence and MCPO's position as to why there should be no different conclusion on rehearing on this criterion than in the August 20 Order.

On rehearing, PDM again argues ATXI witness Hackman has testified that paralleling can create operational, maintenance and reliability problems. (*See*, PO at 65). However, PDM/CFT offered no expert testimony on the construction, operation or maintenance of transmission lines demonstrating that paralleling on Route MZK-2 would cause the kinds of problems identified by Mr. Hackman. Indeed, PDM/CFT ignored the unrebuted and unrefuted testimony of ATXI witness Hackman in the original proceeding that the ATXI/MCPO Stipulated Route was constructable. (Hackman, May 17 Tr. 1021). Mr. Hackman's testimony on rehearing has also been overlooked. Mr. Hackman testified that ATXI's opposition to paralleling on the Meredosia to Pawnee Route was not inconsistent with its position on the ATXI/MCPO Stipulated Route from Mt. Zion to Kansas because the same reliability concerns were not present for that portion of the Mt. Zion to Kansas stipulated route (15 of 70 miles) that parallels existing transmission lines going into the Kansas substation. (Hackman, ATXI Ex. 9.0 (RH) at 8:164-166). Mr. Hackman specifically observed that the Kansas substation had other 345 kV sources and good 138 kV circuits connecting it to other relatively strong sources and for that reason, paralleling on the Mt. Zion to Kansas stipulated route was not a problem. (Hackman, ATXI Ex. 9.0 (RH) at 8:163-166).

For example, in the August 20 Order, the Commission identifies a preferred route for the Kansas-Indiana State Line segment that involved paralleling of existing transmission lines, in spite of operational and reliability concerns. It did so on the grounds that ATXI witness Hackman had indicated that such paralleling in that particular instance did not raise the same reliability concerns that existed for other line segments. (*See*, August 20 Order at 122, approving the Stop Coalition's Route 2 partly on the grounds that ATXI witness Hackman had indicated that the route did not pose reliability problems from the perspective of parallel lines.)

Likewise in the case at bar, ATXI witness Hackman has testified that Route MZK-2 (the ATXI/MCPO Stipulated Route), does not pose the same reliability concerns from the perspective of paralleling existing transmission lines. Mr. Hackman's testimony on this issue as to the Mt. Zion to Kansas line segment is unrebutted and unrefuted by PDM/CFT or any other party. There is no rational or legal basis for accepting Mr. Hackman's view that reliability is not a problem from the perspective of paralleling existing transmission lines for one line segment, while rejecting the same or equivalent testimony for the Mt. Zion to Kansas line segment. Thus, the unrebutted and unrefuted evidence demonstrates that the reliability problems associated with paralleling existing transmission lines on the Meredosia to Pawnee line segment are not present in relation to paralleling of existing transmission lines by Route MZK-2 on the Mt. Zion to Kansas line segment.

It has also been suggested in PDM's Initial Brief, that photographs show there is not enough space for paralleling existing transmission lines on Route MZK-2. (PDM Br. at 11-12). Indeed, it has been suggested that the transmission lines would have to be as much as one mile apart to eliminate those concerns. (*Id.*). First, the photographs relied upon by PDM/CFT have no scale and,

therefore, it is impossible to determine the exact spacing of the transmission lines. Second, PDM has offered no expert testimony on the space that would need to be available. Third, the only distance for spacing suggested by PDM is one mile. However, the evidence from the original proceeding in this case shows that ATXI proposed that approximately 19% of the IRP would be built to parallel existing transmission lines and where such paralleling occurs, ATXI will acquire overlapping easements to reduce total easement width. (Murbarger, ATXI Ex. 7.0 at 7:141-143). Furthermore, the photographs in question show that there is already existing transmission line paralleling in place that is obviously much closer than one mile apart. All of this evidence clearly demonstrates that the spacing between parallel transmission lines can be relatively small without raising prohibitive reliability concerns, contrary to the unsupported speculations of PDM/CFT.

MCPO proposes to modify Section X.C.3. - Difficulty and Cost of Operation and Maintenance - as indicated in Appendix A to this Brief on Exceptions.

ii) Criterion Conclusion

As noted above, the Commission, in the August 20 Order, concluded that the difficulty and cost of operation and maintenance of the lines under consideration for the Mt. Zion to Kansas route did not vary significantly. (August 20 Order at 88). In doing so, it effectively rejected PDM's arguments about problems with the paralleling of existing transmission lines along the ATXI/MCPO stipulated route (now Route MZK-2).

On rehearing, PDM/CFT raised essentially the same arguments pointing to essentially the same type of evidentiary support for those arguments on rehearing. The Commission was not persuaded with those arguments in the context of the August 20 Order and there has been no new

evidence submitted on rehearing to justify acceptance of those arguments. On rehearing, there has been affirmative evidence offered into the record by ATXI witness Hackman explaining why the problems identified by PDM/CFT are not present on Route MZK-2 are not a matter of concern for the route.

Under these circumstances, there is no reason to modify or change the Commission's original conclusion that there is no significant variations between the routes under consideration on this factor. (*See*, August 20 Order at 99). The Proposed Order reaches the same conclusion. (*See*, PO at 75).

4. Environmental Impact - (*Exception #4*)

i) Description of MCPO Position

MCPO has addressed the Environmental Impact criterion and the impact of that criteria on the route selection process in its Initial Brief on Rehearing and its Reply Brief on Rehearing. (MCPO Br. on Reh. at 36; MCPO R. Br. on Reh. at 16-19). It will try not to repeat those detailed arguments here, but incorporates the same by reference.

MCPO notes that in the August 20 Order, the Commission found that the environmental impact of the routes under consideration were "comparable". (August 20 Order at 99). Therefore, according to the Commission, that factor does not favor one route over the other. The Proposed Order reaches the same conclusion with regard to Route MZK-2 and Route CFT-2. (PO at 75). However, the Proposed Order overlooks or fails to consider the only comprehensive analysis of environmental impact for the subject route which was conducted by MCPO's expert witness Mr.

Reinecke on rehearing. That analysis showed that compared to Route CFT-2, Route MZK-2, despite its greater length, minimizes environmental impacts on the entire route because:

- i) Route MZK-2 has 32 fewer acres of wooded areas within the 500-foot analysis corridor than Route CFT-2. (Reinecke, MCPO Ex. 2.2 (RH) Rev. at 3);
- ii) Route CFT-2 impacts bird rookeries (1.2 acres), while Route MZK-2 affects none;
- iii) Route CFT-2 affects more acres of Illinois natural areas (2.2 acres), while Route MZK-2 affects none. (Reinecke, MCPO Ex. 2.2 (RH) Rev. at 3);
- iv) Route MZK-2 has less habitat fragmentation. (Reinecke, MCPO Ex. 2.0 (RH) at 2-5:50-113; MCPO Ex. 4.1 (RH) at 1); and
- v) A majority of Route MZK-2 is located within previously disturbed areas, and, therefore, has less of an impact on minimally disturbed natural areas compared to Route CFT-2. (Reinecke, MCPO Ex. 4.0 (RH) at 5-6:127-140; MCPO Ex. 4.2 (RH)).

PDM/CFT presented no contrary evidence or analysis for either route. Rather, they cite to only a couple of purported impacts allegedly related to Route MZK-2. PDM/CFT alleges that Route MZK-2 crosses a grove of hybrid walnut trees of a single property owner and potentially impacts a forested flood plain as well as a single archeological site. The archeological site, however, is already under cultivation, having been plowed over and the artifacts collected by the current owner, and Mr. Reinecke further testified without contradiction that the presence of the site would not prevent construction of the line in any event. (*See*, Reinecke, MCPO Ex. 4.0 at 6:127-129). Regarding the walnut grove, MCPO observes that this appears to be more of an economic impact related to farming

operations, rather than an environmental factor. The record is further devoid of evidence explaining why the presence of a transmission line of the type and design at issue herein would have any significant impacts on this particular forested flood plain, especially when Route MZK impacts fewer wooded acres in total than Route CFT-2.

The comprehensive analysis presented by MCPO on rehearing, clearly demonstrate that the overall environmental impacts of Route MZK-2 are less than those of Route CFT-2.

MCPO proposes to modify Section X.C.4. - Environmental Impacts - as indicated in Appendix A to this Brief on Exceptions.

ii) Criterion Conclusion

The MCPO comprehensive analysis of the two routes at issue here clearly demonstrates that Route MZK-2 is the better route when environmental impacts are comprehensively considered. In addition, Route MZK-2 impacts substantially fewer residential and non-residential structures. To the extent human beings and their dwellings are considered part of the environment Route MZK-2 has substantially smaller impact on human beings and their dwellings demonstrating that Route MZK-2 is better than Route CFT-2 with regard to environmental impacts.

5. Impacts on Historical Resources - (*Exception #5*)

i) Description of MCPO Position

MCPO addresses the impacts on historical resources criterion in its Initial Brief on Rehearing and its Reply Brief on Rehearing. (MCPO Br. on Reh. at 36-37; MCPO R. Br. on Reh. at 19-23). It will try not to repeat those detailed arguments here, but incorporates them by reference.

The Commission's August 20 Order concluded that the impacts on historical resources criterion slightly favored the ATXI/MCPO Stipulated Route in comparison to the other two routes under consideration. (August 20 Order at 100). The Proposed Order on Rehearing concludes that it cannot determine a clear preference between the routes on the basis of this criterion. (PO at 75).

In the first phase of this proceeding, PDM argued that the ATXI/MCPO stipulated route came within three miles of the Amish community in Arthur, Illinois, a major tourist destination and crossed a Native American/archeological site. (August 20 Order at 92). PDM/CFT makes exactly the same arguments on rehearing. (*See*, PO at 66, discussing the PDM/CFT position on this issue; PDM Br. at 18 and 20).

With regard to the Native American/archeological site, the evidence remains exactly the same it was in the original proceeding. As noted above, that site has been plowed over and disturbed by the owner of the property on which the site is located. While the site will be partially crossed by the proposed transmission line on the MZK-2 route, it will be spanned only by the transmission wires themselves. Construction of the transmission line will not be impaired by the presence of the site. (Reinecke, MCPO Ex. 2.0 at 20:457-463; MCPO Ex. 4.0 at 4-6:68-124). There were more than 54 archeological sites located within the 150-foot easement for the proposed IRP in its entirety in ATXI's original proposal. (Reinecke, MCPO Ex. 4.0 at 6:119-124).

The transmission line on Route MZK-2 would still be at least three miles from Arthur, Illinois and Route CFT-2. However, it is important to note that to the extent the CFT-2 route is using Ameren's primary route through Moultrie County, will pass within one-quarter mile of Amish farmsteads and cultural centers. (Sanders, MCPO Ex. 6.0 at 2:16-23). On rehearing, PDM/CFT

presented evidence that the Route MZK-2 crosses the northern entrance to Arthur. (Doan, PDM Ex. 4.0 (RH) at 3:42-43; PDM/CFT Br. on Reh. at 19-20). It does so at a point approximately eight or nine miles from Arthur. (See, MCPO Br. on Reh. at 21, citing Reinecke, MCPO Ex. 2.1 (RH) at 1-3). However, PDM/CFT fails to note that Route CFT-2 crosses the southern entrance to Arthur at a distance of approximately eight or nine miles from Arthur. (See, MCPO Ex. 2.1 (RH) at 4-6). Furthermore, as noted above, Route CFT-2 will be only about a quarter of a mile from the Amish community in Moultrie County. (Sanders, MCPO Ex. 6.0 at 2:16-23, explaining the ATXI's primary and alternate routes between Mt. Zion and Kansas are within a quarter mile of Amish farmsteads and cultural centers.)

Also, one piece of information from the original proceeding that was not considered is that there is already a 138 kV transmission line close to Arthur. That line is approximately four miles from Arthur. (See, ATXI Petition, Ex. A Part 4 of 5 at 2 and Murphy, ATXI Ex. 4.2, Part 67 of 100 at 2). This line is approximately the same distance from Arthur as Route MZK-2 at its closest point.

In summary, there is little difference in the evidence on rehearing and the evidence presented in the original proceeding, with the exception that it is now known that there are existing transmission lines that are even closer to Arthur than the proposed transmission lines for Route MZK-2. Also, as evidence in the original proceeding showed, Route CFT-2, which uses the ATXI Primary and Alternate Routes in Moultrie County, is actually much closer to the Amish community in Moultrie County than the Amish community in Arthur is to Route MZK-2 (one-quarter mile versus several miles). Under such circumstances, it is difficult to see why there should be any change

in the August 20 Order's conclusion that Route ATXI/MCPO Stipulated Route (Route MZK-2) is better under this criterion.

MCPO proposes to modify Section X.C.5. - Impacts on Historical Resources - as indicated in Appendix A to this Brief on Exceptions.

ii. Criterion Conclusion

Given that the PDM/CFT arguments and evidence are essentially the same on this criterion in the context of the rehearing record as they were in the original proceeding the record now makes clear there are already existing transmission lines even closer to Arthur than Route MZK-2 would be and given the fact that CFT-2 will still pass within one-quarter mile of the Amish community in Moultrie County, Illinois as compared to passing within three miles or more of the Amish community in Arthur, the record does not support changing the phase one conclusion that Route MZK-2 is favored under the impacts on historical resources criterion.

6. Social and Land Use Impacts - (*Exception #6*)

i) Description of MCPO Position

MCPO addresses the social and land use impacts criterion and its impact on the route selection process in its Initial Brief on Rehearing and its Reply Brief on Rehearing. (MCPO Br. on Reh. at 37-38; MCPO R. Br. on Reh. at 23-30). MCPO will try not to repeat those detailed arguments here, but incorporates them by reference.

The August 20 Order found that the criterion favored the ATXI/MCPO Stipulated Route. (August 20 Order at 100). The Proposed Order concludes that the evidence presented on this criterion demonstrates a preference for the Route CFT-2. (Proposed Order at 76). The Proposed

Order bases its conclusion on the assumption that Route MZK-2 will impact more farmland because it is longer than Route CFT-2 and appears to split more farms, rather than traveling along roads or section lines. (*Id.*). MCPO disagrees that under this criterion there is not a clear preference for either route.

First, the record does show that Route MZK-2 has 91 more acres of Prime Farmland within the 500-foot corridor than Route CFT-2. (*See*, Reinecke, MCPO Ex. 2.0 (RH) at 5:Tables 1 and 2). However, as the Commission noted in its August 20 Order, “Because the amount of farmland actually taken out of production depends on the placement of the poles, it is not known which route will directly impact the least amount of farmland.” (August 20 Order at 100). ATXI witnesses have explained that farmland impacts will be mitigated in the design and construction of the line. (Murphy, ATXI Ex. 4.0 at 10-11:218-220 and 8:154-168). There has been no evidence presented on rehearing that would justify a change in this Commission conclusion.

There is also evidence in the record that shows that even under the PDM/CFT definition of “prime farmland”, there is not a significant difference in the total number of acres of prime farmland impacted by the two routes. (*See*, Reinecke, MCPO Ex. 2.0 (RH) at 12-13:289-299, calculating a difference on only 58 acres ($1238 - 1179 = 58$) in prime farmland as defined by PDM/CFT for the two routes analyzed by PDM/CFT - the MZK Route from the Sulphur Spring Substation to Kansas (1238) versus the Channon Hybrid Route (1179)).

MCPO also disagrees that the record supports the conclusion that Route MZK-2 would split more farms than Route CFT-2. Regardless of the number of farms that may be “split”, the record evidence demonstrates that this splitting does not result in the taking of significant farmland out of

production, or the material impairment of farm operations. (*See*, MCPO Ex. 2.0 (RH) at 13:312-316; *see also*, ATXI Ex. 5.0 at 12:198-204). Indeed, ATXI, in its original route selection process, emphasized that one of the ways it was mitigating impacts on farmland was in the design and construction of the transmission line itself. ATXI testified that the single shaft pole it would use for the transmission line and their placement, would minimize impacts on prime farmland. (*See*, Murphy, ATXI Ex. 4.0 at 10-11:214-220). In addition, in the initial phase of these proceedings, ATXI witness Trelz testified that of the Primary Route easement area of approximately 4,489 acres, only about 1.55 acres of actual farmland, will be taken out of production. (MCPO R. Br. on Reh. at 12; Trelz, ATXI Ex. 5.0 at 10:198-204). Also, MCPO witness Dauphinais explained that following corridors such as roadways and section lines would increase the impact on residential structures because residential structures also tend to be located along roads in rural areas. (Dauphinais, MCPO Ex. 1.0 at 39:851-868). Furthermore, as noted above, the record evidence demonstrates that while the transmission line to be built may cross farm property, it does not necessarily divide or bisect property so as to present or significantly impair farming operations. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 19:433-450, Reinecke, MCPO Ex. 2.0 (RH) at 13-14:305-324 and Trelz, ATXI Ex. 5.0 at 10:198-204). Indeed, use of land for residential and farm structure purposes represents social and land use of property impacted by the IRP. In determining social and land use impacts, the Commission should keep in mind that, as discussed later below, the CFT-2 route impacts substantially more residential and non-residential structures and that without modification, Route CFT-2 will impact land development areas near Sullivan, Illinois.

Under the circumstances, it is not clear which route is favored under the social and land use impact criterion.

MCPO proposes to modify Section X.C.6. - Social and Land Use Impacts - as indicated in Appendix A to this Brief on Exceptions.

ii) Criterion Conclusions

Based on the evidence, the Commission should conclude that neither Route MZK-2 nor Route CFT-2 is favored under this criterion. Route MZK-2 affects marginally more prime farmland, but Route CFT-2 impacts significantly more residential and non-residential structures. Furthermore, ATXI has mitigated the impacts on farmlands in the context of the design and construction of the subject transmission line.

7. Number of Affected Landowners/Stakeholders - (*Exception #7*)

i) Description of MCPO Position

MCPO addresses the number of affected landowners/stakeholders criterion and its affect on the route selection process in its Initial Brief on Rehearing and its Reply Brief on Rehearing. (MCPO Br. on Reh. at 38; MCPO R. Br. on Reh. at 30-33). It will not repeat the arguments it made on this criterion, but incorporates them by reference.

The August 20 Order does not appear to make any finding with regard to this criterion. The Proposed Order concludes that it is unable to determine either Route MZK-2 or Route CFT-2 is preferable under this criterion. (PO at 76). MCPO agrees there is not sufficient evidence in the record to determine which route is preferable under this criterion.

MCPO proposes to modify Section X.C.7. - Number of Affected Landowners/Stakeholders -

as indicated in Appendix A to this Brief on Exceptions to better describe MCPO's position.

ii) Criterion Conclusions

The record does not permit the Commission to determine which route is better under this criterion.

8. Proximity to Homes and Other Structures - (*Exception #8*)

i) Description of MCPO Position

MCPO addresses the proximity to homes and other structures criterion in its Initial Brief on Rehearing and its Reply Brief on Rehearing. (MCPO Br. on Reh. at 39; MCPO R. Br. on Reh. at 33-44). MCPO will try not to repeat those detailed arguments here, but incorporates them by reference.

The August 20 Order concludes that the MZK Route out-performed the alternative routes on this criterion. (August 20 Order at 100). The decision in the August 20 Order turned on the fact that there are substantially fewer residences within 75 to 150 feet of the MZK routes compared to the alternatives. (*See, Id.*, concluding that there was only one residence within 75 to 150 feet of the MZK Route, while there were 12 and 17 residences within 75 to 150 feet of the two alternatives respectively.)

The Proposed Order recommends that the Commission conclude that it is unable to find, based on the evidence presented, that either route is preferable under this criterion observing impact that no residential structure will have to be removed on either route. (PO at 76). MCPO respectfully disagrees.

First, in the August 20 Order the Commission clearly determined that Route MZK was better

because it impacted fewer residences within 150 feet of the centerline of the proposed routes. (August 20 Order at 100). The Record on Rehearing clearly establishes that Route MZK-2 does not affect any residential structure within 150 feet of the centerline, while Route CFT-2 impacts nine. (See, Table 1 in Section X above). No party, including PDM/CFT, has challenged the accuracy of this calculation. PDM/CFT have primarily focused on the identification of the number of residences within 530 feet of the centerline of Route MZK-2 (the ATXI/MCPO stipulated route), and possibly identified eight additional structures on Route MZK-2 located between 500 and 530 feet from the centerline that it claims MCPO did not identify. (PDM Br. at 33-51).

As noted previously, part of the confusion on this issue appears to derive from the fact that PDM/CFT has inconsistently expanded the corridor to be analyzed from the 500 foot corridor used heretofore in these proceedings to 530 feet to determine the residential structures within Route MZK, but used the narrower 500 foot corridor to analyze the residences on its own route. Not surprisingly, PDM/CFT then manages to come up with additional residences along Route MZK and then claims these residences, which are located beyond the 500 foot corridor, were somehow missed by ATXI and MCPO. No residences were missed by ATXI or MCPO. The fact is that ATXI, MCPO and PDM/CFT have all identified exactly the same number of residential structures within the 500-foot corridor with one exception. That exception has to do with the total number of structures within five hundred feet for Route CFT-2. PDM calculates it as 30, while ATXI and MCPO calculated it as 31. (Reinecke, MCPO Ex. 2.2 (RH) Rev. at 4 and PDM Ex. 8.0 at 31:658-665; 32:679-680). None of this controverts or challenges the ATXI and MCPO calculations as to the numbers of residential structures within each band, or in total, of the 500 foot corridor as depicted in Table 1 in Section X

above.

Second, the Proposed Order apparently changes the standard used in the August 20, 2013 Order to determine residential impacts for the Mt. Zion to Kansas segment from one which measures the number of structures within 0 to 150 feet of the centerline to one based on the number of residential structures that have to be removed from MZK-2 or Route CFT-2. (*See*, PO at 76). It should not be adopted by the Commission.

Third, the Proposed Order also fails to consider the undisputed and unrefuted evidence on the number of non-residential structures impacted by Routes CFT-2 and MZK-2 as measured by the number of structures within specific corridor bands. (i.e., 0 - 150 feet, 0 - 300 feet and 0 - 500 feet) (*See*, Table 2 in Section X above). Disputes and disagreements have arisen only over the exact distance of particular structures from the centerline of the proposed routes and whether structures would actually have to be removed, not the number of structures within the subject band widths. (PDM/CFT Br. on Reh. at 33-51).

The Proposed Order expresses concern about the use of Google Earth maps and photographs. (PO at 74). The ATXI/MCPO structure counts on rehearing were based on the updated GIS data and visual inspections performed by ATXI on the ATXI/MCPO stipulated route from Mt. Zion to Kansas and the PDM/CFT route. (Reinecke, MCPO Ex. 2.0 (RH) at 3-4:87-96; Murphy, ATXI Ex. 3.0 (RH) at 17; Dec. 17, Tr. 150-151). PDM/CFT, on the other hand, did rely on Google maps and photographs.

Fourth, despite this PDM/CFT attempt to cloud the record by suggesting that there are discrepancies or inconsistencies in MCPO's identification of individual structures and their exact

distance from the centerline of the proposed route. PDM/CFT also mistakenly argues that MCPO and ATXI data are not based on a field survey. As noted above, ATXI surveyed the route after the August 20, 2013 Order and prior to rehearing and MCPO structure counts reflect ATXI's updated data.

PDM/CFT criticisms of the data do not change the fact that MCPO, ATXI and PDM/CFT are in agreement on the total number of residential structures within 0 to 500 feet of the centerline for Route MZK-2 and are in almost complete agreement on the number of structures within 500 feet of the centerline of Route CFT-2 (30-31). Those numbers clearly and indisputably establish that Route MZK-2 significantly outperforms CFT-2 with regard to impact on residential and non-residential structures.

MCPO proposes to modify Section X.C.8. - Proximity to Homes and Other Structures - as indicated in Appendix A to this Brief on Exceptions.

ii) Criterion Conclusions

The undisputed evidence in the record demonstrates that there are significantly fewer residential and non-residential structures impacted by Route MZK-2 v. CFT-2 at distances of 0 to 150 feet, from the centerline, 0 to 300 feet from the centerline and 0 to 500 feet from the centerline of each route. (See Tables 1 and 2 in Section X. above).

The Commission has not previously tried to identify the exact distance of each individual structure from the centerline. Instead, it has traditionally relied upon structure identifications within certain band widths of the centerline. The evidence presented here is consistent with that approach. Furthermore, the ATXI and MCPO data was based upon visual inspection of the routes, and this fact

alone should add confidence to the Commission's decision on this issue. Under the circumstances the Commission should find that Route MZK-2 clearly out performs Route CFT-2 on this criterion.

9. Proximity to Existing and Planned Developments - (*Exception #9*)

i) Description of MCPO Position

MCPO addressed the proximity to existing and planned developments criterion and its impact on the route selection process in its Initial Brief on Rehearing and Reply Brief on Rehearing. (MCPO Br. on Reh. at 39; MCPO R. Br. on Reh. at 44-46). MCPO will try not to repeat the detailed arguments on this criterion here, but incorporates them by reference.

The August 20 Order concludes that it does not appear that any route is favored over the other under this criterion. (August 20 Order at 99). The Proposed Order reaches the same conclusion. (PO at 76). MCPO respectfully disagrees. The record establishes that Route MZK-2, because it originates at Staff Option #2 Mt. Zion substation, does not pass through any development area.⁶ (*See*, MCPO Br. at 39). The record also establishes that without modification, Route CFT-2 passes through a development area near Sullivan, Illinois. (Rockrohr, Staff Ex. 4.0 (RH) at 17:347-348). The Proposed Order purports to correct this problem by adopting a Staff modification which would avoid the development area. However, when it does so, it actually moves Route CFT-2 two miles closer to the Amish community in Arthur, Illinois. (*See*, Murphy, ATXI Ex. 4.2 Part 69 shows the route segment option around Sullivan which constitutes "adjustment" made by Staff to avoid the

⁶ Route MZK originating from the original ATXI Sulphur Spring Road substation site, did pass through a development area near Mt. Zion. (Rockrohr, Staff Ex. 4.0 (RH) at 17:345-347).

Sullivan, Illinois development area and ATXI Petition Ex. A Part 4 of 5 at 2 showing the same thing.) This is a result that will increase the adverse impacts (as defined by PDM/CFT) on the Amish community that is already located several miles from any of the proposed routes. In addition to this, this modification will change the Route CFT-2 alignment by approximately 11 miles (17.7 percent), which could affect a number of the Commission routing factors in unknown ways. This alternative has not been studied and there is no information in the record to know or quantify the impacts this adjustment would have on the other routing factors for this adjusted route. In any event, Staff itself has actually recommended Route MZK because it has less adverse impacts on residences.

The record evidence also shows that Route CFT-2 impacts 154-156 acres of developed land compared to 64-66 acres of developed land use on Route MZK-2. (Reinecke, MCPO Ex. 2.0 (RH) at 5:Table 2, Fn. 3).

Furthermore, the record shows that the MZK routes were developed with a view toward avoiding developed urban areas. (Reinecke, MCPO Ex. 2.0 at 3:47). The success of that effort is demonstrated by the fact that Route MZK-2 affects substantially fewer acres of developed land use and residential structures than Route CFT-2. In addition, there is absolutely no affirmative evidence in the record to support the PDM/CFT claim that Route MZK-2 would have a negative visual impact on existing developments and limit opportunities for growth in six towns. None of the six municipalities identified by PDM/CFT have intervened in this proceeding. No PDM/CFT witness has testified to this effect. Indeed, a review of MCPO Exhibit 2.2 (Rev.) demonstrates that the communities of Casner, LaPlace, Hammond, Atwood, Tuscola and Pierson Station are not impacted

by Route MZK-2. (*See*, MCPO R. Br. at 45-46). MCPO agrees with the Proposed Order's decision not to put any weight on PDM's arguments on this issue.

MCPO proposes to modify Section X.C.9. - Proximity to Existing and Planned Development - as indicated in Appendix A to this Brief on Exceptions.

ii) Criterion Conclusions

The record here clearly establishes that Route MZK-2 does not affect any existing or planned development. Route CFT-2 does affect a specific area of existing or planned development near Sullivan, Illinois unless modified by the Staff's adjustment to Route CFT-2 near Sullivan. However, that adjustment would move Route CFT-2 two miles closer to the Amish community in Arthur, Illinois. The record also clearly establishes that Route CFT-2 impacts more acres of developed land use (64-66 acres versus 154-156 acres) than Route MZK-2. Thus, this criterion definitely favors Route MZK-2.

10. Community Acceptance - (*Exception #10*)

i) Description of MCPO Position

MCPO addresses the Community Acceptance criterion and its impact on the route selection process in its Initial Brief on Rehearing and its Reply Brief on Rehearing. (MCPO Br. on Reh. at 39-40; MCPO R. Br. on Reh. at 46-47). MCPO will try not to repeat the details of the arguments made in its briefs here, but incorporates them by reference.

The August 20 Order concludes that the MZK-2 route was marginally better under this criteria, noting that the "level of support for/lack of opposition to, the MZK-2 Route" marginally favored its adoption in this case. (August 20 Order at 99). The Proposed Order concludes that

neither Route MZK-2 nor Route CFT-2 is clearly preferable to this criteria. (PO at 75). MCPO believes that on balance, Route MZK-2 is favored under this criteria.

First, no active party in the rehearing supports Route CFT-2 other than PDM/CFT. Indeed, Route MZK-2 is actively supported by every other active party in this proceeding, which includes ATXI, MCPO, the Village of Mt. Zion, the Corley Trust, Louise Brock-Jones Limited Partnership, and the Commission's own Staff. In addition, parties originally supporting the ATXI/MCPO stipulated route have not withdrawn their support for the route. Those parties include JDL Broadcasting, Inc., Tarble Limestone Enterprises, Coles County Landowners, Reed Interests, Coles and Moultrie County Land Interests and the Shelby County Landowners Group. (ATXI Br. on Reh. at 37; Staff Br. at 20-21; Brock-Jones Br. on Reh. *generally*; Corley Br. on Reh., *generally*; ATXI/Village of Mt. Zion Stipulation; ATXI Stip. 1 on Reh; Stop the Power Lines Coalition, June 3, 2013 Br. at 1-2; Shelby County Landowners June 13, 2013 Br. at 4). These parties represent numerous divergent interests over a broad geographic region in which the IRP project is to be located. They include parties representing interests in Macon County, Moultrie County, Coles County, and Shelby County. PDM/CFT does not have this broad support for their route.

Furthermore, Route MZK-2 is supported by the Staff of the Commission. (Staff Br. on Reh. at 20-21). The Commission and its Staff are ultimately charged with protecting the public interest in the limits of the applicable provisions of the Public Utilities Act, in this case Section 8-406.1.

While PDM/CFT claims that 500 parties have intervened as part of the PDM/CFT group, there is no record evidence that clearly discloses the interests of those parties, including whether or how any of them are actually affected by Route MZK-2 or any other route. Some may simply not

like utilities or power lines, wherever they may happen to be. On the other hand, the Stipulated Route/Route MZK-2 represents an accommodation and balancing of interests among numerous parties representing a host of clearly defined and divergent interests. Given these circumstances, and in spite of the fact that a number of parties have intervened as part of the PDM/CFT group, the evidence clearly suggests that Route MZK-2 has broader geographic, municipal and public support than Route CFT-2.

MCPO proposes to modify Section X.C.10. - Community Acceptance as indicated in Appendix A to this Brief on Exceptions.

ii) Criterion Conclusions

The evidence supports the conclusion that Route MZK-2 is, at a minimum, marginally favored under this routing criteria. Given the overwhelming support of active participants with numerous, clear interests in this case and the geographic diversity of that support, the Commission should conclude that under this criterion, Route MZK-2 would be the preferable route.

11. Visual Impacts - (*Exception #11*)

i) Description of MCPO Position

MCPO addresses the impacts on visual impacts criterion in its Initial Brief on Rehearing and its Reply Brief on Rehearing. (MCPO Br. on Reh. at 40; MCPO R. Br. on Reh. at 48-51). MCPO will try not to repeat those detailed arguments here, but incorporates them by reference.

The Commission's August 20 Order concluded that "the degree of visual impact also favors the MZK Route." The August 20 Order observed that while 345 kV transmission lines cannot be "hidden", one can "minimize its intrusion into the landscape by finding "similar linear features".

(Aug. 20 Order at 99-100). The August 20 Order observes that the MZK-2 Route benefits from paralleling a “similar linear feature”, in that it parallels an existing 138 kV transmission line, and that running the two lines parallel to one another will minimize the 345 kV lines visual impact. (*Id.* at 100). The August 20 Order then concludes:

Because the record does not reflect any comparable linear features along ATXI Routes, the visual impact of a new 345 kV line along those routes would be greater. (*Id.* at 101)

These circumstances still pertain on rehearing.

However, on rehearing, the Proposed Order suggests that, although Route MZK-2 is longer, its additional length will parallel an existing transmission line, which will thereby mitigate some of the visual impact associated with the extra length. (PO at 75). The Proposed Order concludes there is “little difference between the routes in considering this criterion”. (PO at 75).

MCPO respectfully disagrees with the PO’s conclusion and suggests that the evidence on rehearing does not justify a change in the Commission’s August 20 determination that this factor favors Route MZK-2.

First, MCPO agrees that the record on rehearing shows that Route MZK-2 is 8.3 miles longer than Route CFT-2. (See PO at 51, showing Route MZK-2 is 70.2 miles long, and Route CFT-2 is 61.9 miles long). The undisputed evidence in the record also establishes that Route MZK-2 parallels existing transmission lines for a distance of 14.7 miles, while Route CFT-2 does so for only 1.0 mile. (MCPO Ex. 2.3 (RH)). Thus, at a minimum, Route MZK-2 provides an additional 5.4 miles of visual impact mitigation compared to Route CFT-2 after subtracting off its 8.3 miles of additional length and Route CFT-2’s 1.0 mile of such paralleling.

The August 20 Order properly concluded that given its paralleling of similar linear features Route MZK (now Route MZK-2) was preferable. Given that Route MZK-2 provides a net visual impact benefit of 5.4 miles compared to the PDM/CFT route, there is no reason to modify the Commission's August 20 conclusion on this criterion. The Visual Impact factor favors Route MZK-2 over Route CFT-2.

MCPO proposes to modify Section X.C.11. - Visual Impact - as indicated in Appendix A to this Brief on Exceptions.

ii) Criterion Conclusions

The record on rehearing demonstrates that Route MZK-2 provides a greater mitigation of visual impacts through paralleling transmission lines with existing linear features than Route CFT-2. In its August 20 Order the Commission concluded that Route MZK (or the ATXI/MCPO Stipulated Route) did better on this criteria because of the paralleling of similar linear features than the alternative routes under consideration. This is still true on rehearing. Therefore, there is no reason for the Commission to change its August 20 conclusion. It should find in this case that Route MZK-2 does better than Route CFT-2 on this factor.

12. Presence of Existing Corridors - (Exception #12)

i) Description of MCPO Position

MCPO addresses the Presence of Existing Corridors criterion in its Initial Brief on Rehearing and its Reply Brief on Rehearing. (MCPO Br. on Reh. at 40-41; MCPO R. Br. on Reh. at 51-58). MCPO will try not to repeat those detailed arguments here, but incorporates them by reference.

The August 20 Order concludes that because the MZK Route paralleled existing transmission lines and the record did not reflect that any of the other routing alternatives were immediately adjacent to other corridors, this criterion favored the MZK Route. (Aug. 20 Order at 100).

The Proposed Order concludes that Route CFT-2 is preferable under this criterion, because it follows more minor corridors such as property lines, section lines and minor roads, and avoids the dangers of paralleling existing transmission lines which ATXI has previously argued as an adverse attribute. (PO at 76). MCPO respectfully disagrees that this criterion favors Route CFT-2.

First, the Proposed Order suggestion that Route CFT-2 is preferable under this criteria because it avoids the dangers of paralleling existing transmission lines contradicts other findings in the August 20, 2013 Order. The August 20 Order finds that paralleling on other line segments was not a concern. (August 20 Order at 119). The PO also overlooks that in this particular case ATXI has presented testimony on rehearing that the dangers of paralleling existing transmission lines, which it noted with regard to the Meredosia to Pawnee segment, are not an impediment to Route MZK-2 (the ATXI/MCPO Stipulated Route) for Mt. Zion to Kansas. (Hackman, ATXI Ex. 9.0(RH) at 8:156-166). The Proposed Order, unfortunately, has overlooked this critical evidence. Furthermore, PDM/CFT has offered no evidence of any kind to rebut, refute or contradict the testimony of ATXI's expert witness on this matter.

Second, according to the Proposed Order it observes that Route MZK-2 parallels existing transmission lines for a portion of its length. (PO at 76). Indeed, the evidence of record clearly establishes that Route MZK-2 is better at paralleling existing linear features, such as transmission lines, Major Roads, and Railroads than Route CFT-2. (Dauphinais, MCPO Ex. 1.0 RH 2C at

17:397-399, measuring the length of each route not parallel to existing linear features). When one adds minor roads and other utility rights-of-way into the analysis, MZK-2 and CFT-2 perform similarly. (*Id.*). Only when one adds in section lines does Route CFT-2 out-perform Route MZK-2. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 17:399-400). However, with regard to section lines, Mr. Dauphinais testified that the primary purpose of paralleling existing linear features is to take advantage of existing visual, noise, environmental fragmentation and/or agricultural fragmentation to avoid introduction of new such impacts. (Dauphinais, Ex. 1.0 RH 2C at 16:357-361) He also testified that not all linear features are the same and that, although a section line may reflect an agricultural boundary, it does not, by itself, have any significant visual or noise impacts or environmental fragmentation impacts. (Dauphinais, MCPO Ex. 1.0 at 41:899-907) Mr. Dauphinais testified that paralleling significant linear features, such as transmission lines, major roads and railroads means that Route MZK-2 will parallel existing infrastructure that has a more significant visual impact, noise impact and environmental impact than minor roads, or section lines, which helps to mitigate visual impacts, etc. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 17-18:400-405).

Third, including minor roads, section lines, etc. in the paralleling analysis increases the degree of paralleling in favor of Route CFT-2. (MCPO Ex. 1.4 (RH)). However, this difference is obtained at the expense of placing nine residential structures within 150 feet of Route CFT-2 in comparison to Route MZK, which has no residential structures within 150 feet. (See, Dauphinais, MCPO Ex. 1.2 (RH)).

Fourth, the Proposed Order's conclusion that Route CFT-2 performs better with regard to this criterion is based in part on the assumption that Route CFT-2 affects fewer landowners. However,

MCPO would respectfully point out that the Proposed Order concludes elsewhere that it is unable to find, based on the evidence presented, that either route is preferable when considering the number of affected landowners and stakeholders. (*See*, PO at 76). There is no evidence in the record that demonstrates that Route CFT-2 impacts fewer landowners than Route MZK-2. Indeed, the evidence of the record suggests to the contrary. For example, both MCPO and ATXI have presented evidence in the record, demonstrating that Route MZK-2 affects substantially fewer residential structures within the 500 foot analysis corridor than Route CFT-2. (Reinecke, MCPO Ex. 2.2 (RH) Rev). Furthermore, MCPO has presented unrebutted and unrefuted evidence that Route CFT-2 affects substantially more acres of developed land use than Route MZK-2 despite Route MZK-2's greater length. This suggests that Route CFT-2 actually affects more property owners than Route MZK-2 despite Route MZK-2's greater length. (Reinecke, MCPO Ex. 2.0 (RH) at 5:Table 2, Fn. 3) Therefore, the fact that one route is longer than the other does not necessarily imply that the longer route impacts more property owners absent clear evidence in the record establishing the number of property owners on each route. No such evidence exists in this record.

Under the circumstances described above the Commission cannot reasonably conclude that Route CFT-2 performs better on the Presence of Existing Corridors criterion than Route MZK-2. In fact, evidence shows that Route MZK-2 actually out performs Route CFT-2 when the nature of the different types of existing corridors that are paralleled is correctly considered.

MCPO proposes to modify Section X.C.12. - Presence of Existing Corridors - as indicated in Appendix A to this Brief on Exceptions.

ii) Criterion Conclusions

The evidence presented in this case, demonstrates that ATXI's concerns about paralleling existing transmission lines are not applicable to Route MZK-2. Route MZK-2 out performs Route CFT-2 when it comes to paralleling major linear features such as existing transmission lines, major roads and railroads. Only when one adds minor roads and section lines into the analysis does Route CFT-2 marginally out perform Route MZK-2, but section lines are far less significant than major roads, transmission lines and railroads in mitigating new adverse impacts. In addition, the paralleling of minor roads and section lines, etc. comes at the expense of significant increased adverse impacts on residential structures. (Route MZK-2 impacts no residential structures within 150 feet and Route CFT-2 impacts 9.) Under the circumstances, Route MZK-2 out performs Route CFT-2 on this criterion.

G. Commission Conclusion - (*Exception #13*)

Route MZK-2 is 8.3 miles longer and costs \$15.7 million more to construct than Route CFT-2. As MCPO reads the Proposed Order, it appears that most of the differences in the routing factors for these two routes appear to be driven by the additional length of Route MZK-2. MCPO believes that neither the Length of Line factor, nor the Difficulty and Cost of Construction and Maintenance factor should be the determinative factor in selecting the appropriate route for Mt. Zion to Kansas. The Commission has approved routes for different IRP segments in this case that were of greater length and greater construction cost than alternative routes based on factors other than Length of Line or Difficulty and Cost of Construction and Maintenance. For example, the Proposed Order recommends the approval of the ATXI Stipulated Route for the Meredosia-Pawnee route segment

despite the fact that the Stipulated Route costs approximately \$27 million more and is 18.3 miles longer. (*See*, PO at 16-19).

More importantly, the Commission has approved transmission line route segments that have higher construction costs and greater length in other proceedings because the longer and more costly route impacted less residential structures. (*Illinois Power Co.*, Dkt. 06-0179, May 16, 2007, Order at 16-17). Stating that even though the approved route was “longer and more costly it provides among other things an important benefit of avoiding the siting of high voltage transmission lines in close proximity to residential dwellings.” The Commission has previously found that proximity to occupied homes carries the most weight in selecting a preferred transmission line route. (*Illinois Power Co.*, Dkt. 06-0706, June 23, 2010 Order on Reopening at 27). In this case, the ALJ’s recognized that “proximity to homes and other structures” is an “important criteria”. (PO at 27).

The record in this proceeding establishes that Route CFT-2 impacts substantially more homes than Route MZK-2, regardless of the analysis performed. ATXI performed a field survey to establish the number of residential structures impacted. (Murphy, ATXI Ex. 3.0 (RH) at 17:150-151). MCPO relied upon ATXI’s data and analysis in making its own residential structure impact determination. (Reinecke, MCPO Ex. 2.0 (RH) at 3-4:84-96). While Staff and PDM/CFT appeared to rely on Google map analyses, their analyses still demonstrate that Route CFT-2 impacts significantly more residential structures than Route MZK-2. Under these circumstances, the Commission should not decline to evaluate and analyze the weight of the evidence recognizing the reasons for the difference in these analyses and that, regardless of the differences, and the reasons therefore, Route CFT-2 impacts more residential structures than Route MZK-2. That being the case, regardless of how the

Commission might ultimately decide that other factors may favor one route over the other, or even if the Commission cannot decide whether a particular factor favors one route over another, the Commission should select Route MZK-2 as the preferred route because evidence clearly shows that under this important factor, Route MZK-2 is clearly the preferred route.

With regard to the twelve routing factors considered by the Commission, the record shows that Route MZK-2 is favored under:

- (i) Proximity to Homes and Other Structures;
- (ii) Environmental Impacts;
- (iii) Impacts on Historical Resources;
- (iv) Community Acceptance;
- (v) Visual Impacts; and
- (vi) Presence of Existing Corridors.

The record establishes that neither Route MZK-2 nor the PDM/Channon Route is favored under:

- (i) Difficulty and Cost of Operation and Maintenance;
- (ii) Social and Land Use Impact;
- (iii) Number of Affected Landowners/Stakeholders, or
- (iv) Proximity to Existing Planned Development.

The PDM route is favored under:

- (i) Length of Line and Difficulty; and
- (ii) Cost of Construction.

Under the circumstances, Route MZK-2 should be selected as the preferred route for the Mt. Zion to Kansas segment of the IRP.

MCPO proposes to modify the PO's Conclusion with regard to the preferred Mt. Zion to Kansas Route in Section X.G. - Commission Conclusion - as indicated in Appendix A to this Brief.

CONCLUSION

For the reasons stated above, the Proposed Order should be modified as recommended by MCPO and the Commission should select Route MZK-2 as the preferred route for the Mt. Zion to Kansas segment of the IRP.

Respectfully submitted,



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